

MEMORANDUM

DATE: October 21, 2003

SUBJECT: RCRA Compliance Evaluation Inspection

FROM: Mike Michaud, Chief
Surveillance Section (6EN-AS)

TO: Carol Peters, Chief
ALONM Section (6EN-HS)

The attached RCRA report has been prepared and reviewed by Compliance Assurance and Enforcement Division personnel. This report is being forwarded to you for your information and action.

Inspection dates: September 17, 2003 EPA ID Nos. ARD091682443 Name of Facility Kohler
Facility Mailing Address: 1215 Industrial Ln, Malvern, AR 72104

Facility Owner: Kohler Corp (Lee Kraemer Global Faucets EH&S Coordinator) Telephone: (920) 457-4441

Description of Facility: Faucet manufacturer and bronze machining

Type of Ownership: Federal State County Municipal X Private

Did facility request a copy of the report: X Yes No

HW Activities: X Generator Transporter Treatment Disposal Storage

Type of Inspection: X Lead Oversight PSMS Commitment X CEI
 CME Land Ban MM (Type C)

INSPECTION PARTICIPANTS: (name and phone number)

EPA Inspector(s): David Robertson (214) 665-7363

State Inspector(s): n/a

Facility Representative(s): Russell Mercer (501) 337-7536; Jack Freer (870) 912-2111

Additional RCRA Report Comments: see attached report

Inspectors Signature: David Foles Date: 10-21-03

Reviewed by: Ken Coop Date: 10-21-03

H2/RC/EG



**EPA REGION 6
SURVEILLANCE SECTION
RCRA MULTI-MEDIA INSPECTION REPORT**

Report Date: October 20, 2003
Inspection Date: September 17, 2003
Type of Inspection: Compliance Evaluation
Inspection
Company Name: Kohler
Mailing Address: 1215 Industrial Lane
Malvern AR 72104
Company Owner Kohler
Location: Kohler Wisconsin
Type of Industry/SIC
Identification Number: ARD091682443

Enforcement
Officer

EPA Inspector: David Robertson

Reviewed by:

<u>David Re</u>	<u>10-21-03</u>
Signature	Date
<u>Ken Coop</u>	<u>10-21-03</u>
Signature	Date

*** Attachments ***

Vendor No. 100532

Check No. 0002259743

Invoice No.	Invoice Date	Doc. Number	Gross Amount	Discount	Net Amount
RCRA-06-20050910	08/11/2005	1910303002	2,198.00	0.00	2,198.00
Totals:			2,198.00	0.00	2,198.00

REMOVE CHECK ALONG THIS PERFORATION

ACCOUNTS PAYABLE

CHECK NO. 000225974

66-156
531

DATE: 08/12/2005

\$*****2,198.00*

KOHLER.

KOHLER CO. KOHLER, WISCONSIN 53044

PAY TWO THOUSAND ONE HUNDRED NINETY-EIGHT USD and
00/100THS DOLLARS

TO THE ORDER OF

TREASURER OF THE UNITED STATES
OF AMERICA

USD

WACHOVIA BANK N.A.

401 LINDEN STREET
WINSTON-SALEM

27150

In the matter of Kohler Co., Docket #

RCRA-06-2005-0910

⑈0002259743⑈ ⑆053101561⑆ 2079900134982⑈

SEE REVERSE SIDE FOR OPENING INSTRUCTIONS

KOHLER.

KOHLER CO. KOHLER, WISCONSIN 53044

TREASURER OF THE UNITED STATES
OF AMERICA
REGIONAL HEARING CLERK (6C) EPA REG
PO Box 371099M
PITTSBURGH PA 15215
UNITED STATES

05 OCT 67 01 10 50
JAIL HEARING CLERK
TWIN REGION VI

DOCKET NO. RCRA-06-2005-0910

CONSENT AGREEMENT AND FINAL ORDER

RESPONDENT

I.

1. This proceeding for the assessment of civil penalties and compliance order is brought by the Environmental Protection Agency (EPA) pursuant to Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928, as amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA") and is simultaneously commenced and concluded through the issuance of this Consent Agreement and Final Order (CAFO) under 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3).
2. Notice of this action was given to the Arkansas Department of Environmental Quality (ADEQ) prior to the issuance of this CAFO, as required by Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
3. The Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.

4. The Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO, and waives all defenses which have been raised or could have been raised to the claims set forth in the CAFO.
5. This CAFO resolves only those violations which are alleged herein.
6. The Respondent consents to the issuance of the CAFO hereinafter recited and consents to the assessment and payment of the stated civil penalty in the amount and by the method set out in this CAFO.

II.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. Respondent is a Wisconsin Corporation registered to do business in Arkansas.
8. Respondent began doing business in the State of Arkansas on January 21, 1998.
9. Respondent's registered agent for service is Corporation Company, 425 W. Capital Ave., Suite 1700, Little Rock, Arkansas, 72201.
10. Respondent owns and operates a business located at 1215 Industrial Ln., Malvern, AR 72104.
11. Respondent's business operations include, but are not limited to, metal machining, braising, and acid leaching.
12. Respondent is a "person" as that term is defined in [40 C.F.R. § 260.10], and Regulation 23 Subsection B 260.10.
13. Respondent's business is a facility as that term is defined at [40 C.F.R. § 260.10], and Regulation 23 Subsection B 260.10 (Facility).

14. Respondent is the owner and operator of the Facility, as those terms are defined in [40 C.F.R. § 260.10], and Regulation 23 Subsection B 260.10.
15. Pursuant to RCRA § 3010, 42 U.S.C. § 6930(a), Respondent notified EPA and ADEQ of its hazardous waste activity and was assigned identification number ARD091682443.
16. Pursuant to RCRA § 3010, 42 U.S.C. § 6930(a), on or about June 20, 2000, Respondent submitted a revised Notification of Regulated Waste Activity (Notification).
17. In its Notification, Respondent certified that its Facility:
 - a. generates greater than 1,000 kg/mo (2,200 lbs) of hazardous waste;
 - b. generates solid waste exhibiting hazardous waste characteristics: ignitable (D001);
 - c. generates solid waste that exceeds RCRA characteristic waste toxicity levels for D008; and
 - d. generates listed hazardous waste F001.
18. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, on September 17, 2003, EPA conducted a Compliance Evaluation Inspection (Inspection) at Respondent's facility.
19. Additionally, on September 17, 2003, there was a review of the Respondent's record keeping documents (Review) to ascertain Respondents' regulatory compliance.

20. Pursuant to the authority granted by Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), on March 11, 2005, EPA issued a Request for Information (herein the "Information Request") to Respondent seeking information pertaining to the facility's regulatory compliance.
21. On March 23, 2005, EPA received a response to the Information Request (herein the "Information Response") from Respondent.

COUNT I- FAILURE TO PROPERLY PREPARE HAZARDOUS WASTES MANIFEST FOR
NAPTHA WASTE STREAM REGULATION 23 SECTION 262.20(a)[40 C. F. R.262.20(a)]

22. Paragraphs 1 - 21 are hereby incorporated by reference.
23. Pursuant to Regulation 23 Section 262.20(a) [40 C.F.R. § 262.20 (a)], a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal must prepare a Manifest OMB control number 2050-0039 on EPA form 8700-22A.
24. During the inspection, it was noted that manifest AR1384110 did not include D008 as the waste code number.
25. In a letter dated March 23, 2003, Respondent stated that it modified the waste code number for the waste stream to circulate the D008 waste code.
26. Therefore, based on the above, Respondent violated Regulation 23 Section 262.20(a) [40 C.F.R. § 262.20 (a)], by failing to properly prepare a hazardous wastes manifest.

COUNT II: FAILURE TO OPERATE WITHOUT A PERMIT OR INTERIM STATUS IN
VIOLATION OF REGULATION 23 §§ 270.1, 270.10, 262.34(c)(1)(ii)

27. Paragraphs 22 - 26 are hereby incorporated by reference.
28. Pursuant to Regulation 23 §§ 270.1, 270.10, 262.34(c)(1)(ii) and [40 C.F.R §§ 270.1, 270.10, 262.34(c)(1)(ii)], no person may store, treat, or dispose of hazardous waste without a permit or interim status.
29. Pursuant to Regulation 23 §§ 270.1, 270.10, 262.34(c)(1)(ii) and [40 C.F.R. §§ 270.1, 270.10, 262.34(c)(1)(ii)], storage is defined as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
30. Pursuant to Regulation 23 Section 260.10 [40 C.F.R.§ 260.10], storage is defined as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
31. Pursuant to Regulation 23 §§ 270.1, 270.10, 262.34(c)(1)(ii) and [40 C.F.R. §§ 270.1, 270.10, 262.34(c)(1)(ii)], a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.33(e) in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) of this section provided he: marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

32. During the Inspection, Respondent stated that bacterial decomposition from the bio clean cone tank generates sludge which is removed from the bio clean tank monthly.
33. During the Inspection, a one liter container of sludge was removed from the bio clean cone tank.
34. During the Inspection, EPA observed and photographed the Respondent's Bio Clean System.
35. During the Inspection, EPA observed and photographed a container used to store bio clean sludge as a result of the facility's operation.
36. Pursuant to Regulation 23 Section 261.24 [40 C.F.R. § 261.24], a solid waste exhibits the characteristics if a representative sample of the waste has a lead concentration of at least 5mg/l.
37. During the Inspection, Respondent provided documentation showing that bio clean sludge exhibits characteristics for lead hazardous waste.
38. The contents of the container meets the definition of head hazardous waste (D008).
39. During the inspection, it was noted that the container of naptha waste was not labeled as referenced in Photograph #2.
40. In a letter dated March 23, 2005, Respondent stated that it implemented procedures to ensure workers are reminded of the need for proper labeling.
41. Therefore, based on the above, Respondent violated Regulation 23 §§ 270.1, 270.10, 262.34(c)(1)(ii)[40 C.F.R. §§ 270.1, 270.10, 262.34(c)(1)(ii)], by failing to meet requirements for permit exemption-hazardous waste sludge from the biotreatment system.

III.

COMPLIANCE ORDER

42. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), the Respondent is hereby ORDERED to take the following actions and provide evidence of compliance within 15 (fifteen) days of execution of the CAFO:

- a. Respondent shall mark or label the words "Hazardous Wastes" on hazardous waste storage containers.
- b. Respondent shall prepare all Manifests, in accordance with the instructions included in Regulation 23 Section 262.20 [Appendix I of this section].
- c. Respondent shall take the necessary steps to ensure its compliance to mark or label the words "Hazardous Wastes" on hazardous waste storage containers.
- d. Respondent shall take the necessary steps to ensure its compliance to prepare all Manifests, in accordance with the instructions included in Regulation 23 Section 262.20 [Appendix I of this section].

43. In all instances in which this CAFO requires written submissions to EPA, each submission must be accompanied by the following certification signed by a "responsible official":

I certify that the information contained in or accompanying this submission is true, accurate and complete. As to those identified portions of this submission for, which I cannot personally verify the truth and accuracy, I certify as the official having supervisory responsibility for the person(s) who, acting upon my direct instructions, made the verification, that this information is true, accurate, and complete.

For the purpose of this certification, a “responsible official” of a Respondent means a person with the authority to bind the Respondent as to the truth, accuracy, and completeness of all certified information.

IV.

TERMS OF SETTLEMENT

A. PENALTY PROVISIONS

44. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the seriousness of the alleged violations, good faith efforts to comply with the applicable regulations, and the October 1990 RCRA Civil Penalty Policy, it is ORDERED that the Respondent be assessed a civil penalty of TWO THOUSAND ONE HUNDRED NINETY EIGHT DOLLARS (\$2,198).
45. The penalty shall be paid by mailing a cashier's check or certified check payable to the Treasurer of the United States of America, within thirty (30) days of the effective date of this CAFO, to the following address:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251

The case name and docket number (In the Matter of Kohler Co. , Docket No. RCRA-06-2005-0910 shall be clearly typed on the check to ensure proper credit.

46. The Respondent shall send a simultaneous notice of such payment, including a copy of the cashier's check or certified check to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Carol Peters-Wagnon, Section Chief
Hazardous Waste Enforcement Branch
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Tiffany McCoy

Your adherence to this request will ensure proper credit is given when penalties are received in the Region.

47. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar days of the effective date of the CAFO and will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b).

EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

B. GENERAL PROVISIONS:

1. PARTIES BOUND

48. The provisions of this CAFO shall apply to and be binding upon the parties to this action, their officers, directors, agents, employees, successors, and assigns. The undersigned representative of each party to this CAFO certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this CAFO and to execute and to legally bind that party to it.

2. STIPULATED PENALTIES

49. In addition to any other remedies or sanctions available to EPA, if the Respondent fails or refuses to comply with any provision of this CAFO, the Respondent shall pay stipulated penalties in the following amounts for each day during which each failure or refusal to comply continues:

Period of
Failure to Comply

Penalty Per
Violation Per Day

1st through 15th day	\$ 200.00
16th through 30th day	\$ 500.00
31st day and beyond	\$ 1,000.00

Penalties shall accrue from the date of the noncompliance until the date the violation is corrected, as determined by EPA.

50. The payment of stipulated penalties shall be made by mailing a cashier's check or certified check payable to the Treasurer of the United States, within thirty (30) days of receipt of a demand letter for payment to the following address:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
P.O. Box 371099M
Pittsburgh, PA 15251

The case name and docket number (In the Matter of Kohler Co, Docket No. RCRA-06-2005-0910) shall be clearly typed on the check to ensure proper credit. The Respondent shall send simultaneous notices of such payments, including copies of the money order, cashier's check or certified check to the following:

Lorena S. Vaughn
Regional Hearing Clerk (6RC-D)
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

RCRA Enforcement Branch (6EN-HS)
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Tiffany McCoy

Marvin Benton, Chief
Water/RCRA Legal Enforcement Branch (6RC-EW)
Office of Regional Counsel
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Adherence to these procedures will ensure proper credit when payments are received. In addition, the provisions of Section IV.A concerning interest, penalties, and administrative costs also apply.

51. In addition to the stipulated penalties set forth above, EPA specifically reserves the right to seek other remedies or sanctions available to the EPA by reason of the Respondent's failure to comply with the requirements of this CAFO, including sanctions that EPA may seek under Section 3008 of RCRA, 42 U.S.C. § 6928.
52. If the Respondent disputes the basis for imposition of stipulated penalties, the issue shall be resolved under the Dispute Resolution procedures of this CAFO. All stipulated penalties shall continue to accrue through the period that dispute resolution is ongoing. Invoking dispute resolution shall not stay the accrual of stipulated penalties; however, the obligation to pay shall be stayed pending resolution of the dispute.

3. DISPUTE RESOLUTION

53. If the Respondent objects to any decision or directive of EPA in regard to Sections III or IV, the Respondent shall notify the following persons in writing of its objections, and the

basis for those objections, within fifteen (15) calendar days of receipt of EPA's decision or directive:

Mark Hansen, Chief
RCRA Enforcement Branch (6EN-H)
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Marvin Benton, Chief
Water/RCRA Legal Enforcement Branch (6RC-EW)
Office of Regional Counsel
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

54. The RCRA Enforcement Branch Chief or designee (Branch Chief), and the Respondent shall then have an additional fifteen (15) calendar days from EPA's receipt of the Respondent's written objections to attempt to resolve the dispute. If an agreement is reached between the Branch Chief and the Respondent, the agreement shall be reduced to writing and signed by the Branch Chief and the Respondent and incorporated by reference into this CAFO.
55. If no agreement is reached between the Branch Chief and the Respondent within that time period, the dispute shall be submitted to the Director of the Compliance Assurance and Enforcement Division or designee (Division Director). The Division Director and the Respondent shall then have a second 15-day period to resolve the dispute. If an agreement is reached between the Division Director and the Respondent, the resolution shall be reduced to writing and signed by the Division Director and Respondent and incorporated by reference into this CAFO. If the Division Director and the Respondent

are unable to reach agreement within this second 15-day period, the Division Director shall provide a written statement of EPA's decision to the Respondent, which shall be binding upon the Respondent and incorporated by reference into the CAFO.

56. If the Dispute Resolution process results in a modification of this CAFO, the modified CAFO must be approved by the Regional Judicial Officer and filed pursuant to Section IV.B.5 (Modifications).

4. NOTIFICATION

57. Unless otherwise specified elsewhere in this CAFO, whenever notice is required to be given, whenever a report or other document is required to be forwarded by one party to another, or whenever a submission or demonstration is required to be made, it shall be directed to the individuals specified below at the addresses given (in addition to any action specified by law or regulation), unless these individuals or their successors give notice in writing to the other parties that another individual has been designated to receive the communication:

EPA: Hazardous Waste Enforcement Branch
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Attention: Tiffany McCoy

Respondent: Kohler Co.
1215 Industrial Ln.
Malvern, AR 72104
Attention: William Royals

5 MODIFICATION

58. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approved by a Regional Judicial Officer, and such modification or amendment being filed with the Regional Hearing Clerk.

6. RETENTION OF ENFORCEMENT RIGHTS

59. EPA does not waive any rights or remedies available to EPA for any other violations by the Respondent of Federal or State laws, regulations, or permitting conditions.
60. Except as specifically provided in this CAFO, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions to protect public health, welfare, or the environment, or prevent, abate or minimize an actual or threatened release of hazardous substances, pollutants, contaminants, hazardous substances on, at or from Respondent's facility. Furthermore, nothing in this CAFO shall be construed to prevent or limit EPA's civil and criminal authorities, or that of other Federal, State, or local agencies or departments to obtain penalties or injunctive relief under other Federal, State, or local laws or regulations.

7. INDEMNIFICATION OF EPA

61. Neither EPA nor the United States Government shall be liable for any injuries or damages to person or property resulting from the acts or omissions of the Respondent, their officers, directors, employees, agents, receivers, trustees, successors, assigns, or contractors in carrying out the activities required by this CAFO, nor shall EPA or the United States Government be held out as a party to any contract entered into by the Respondent in carrying out the activities required by this CAFO.

8. RECORD PRESERVATION

62. The Respondent shall preserve, during the pendency of this CAFO, all records and documents in its possession or in the possession of its divisions, employees, agents, contractors, or successors which in any way relate to this CAFO regardless of any document retention policy to the contrary.

9. COSTS

63. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L.104-121), and any regulations promulgated pursuant to those Acts.

10. TERMINATION

64. At such time as the Respondent believes that it has complied with all terms and conditions of this CAFO, it may request that EPA concur whether the requirements of this CAFO have been satisfied. Such request shall be in writing and shall provide the necessary documentation to establish whether there has been full compliance with the terms and conditions of this CAFO. EPA will respond to said request in writing within 90 days of receipt of the request. This CAFO shall terminate when all actions required to be taken by this CAFO have been completed, and the Respondent has been notified by the EPA in writing that this CAFO has been satisfied and terminated.

11. EFFECTIVE DATE

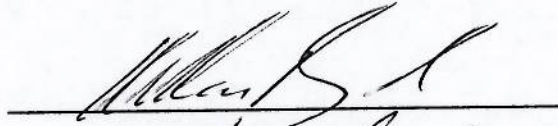
This CAFO, and any subsequent modifications, become effective upon filing with the
Regional Hearing Clerk.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT
AGREEMENT AND FINAL ORDER:**

FOR THE RESPONDENT

Date:

8/29/05

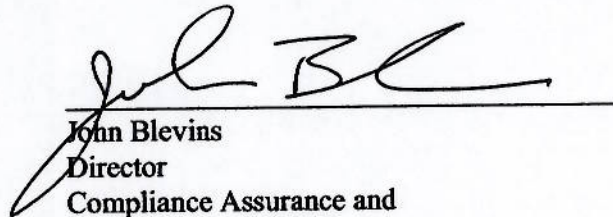


William Regals
Kehle, Co.

FOR THE COMPLAINANT:

Date:

9/20/05

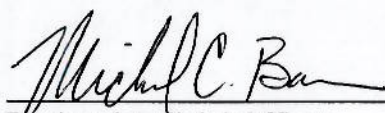


John Blevins
Director
Compliance Assurance and
Enforcement Division
U.S. Environmental Protection Agency
Region 6

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: September 23, 2005



Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of October, 2005, the original of the foregoing Consent Agreement and Final Order (CAFO) was hand delivered to the Regional Hearing Clerk, U.S. EPA - Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and that a true and correct copy of the CAFO was sent to the following by the method identified below:

Kohler Co.
1215 Industrial Ln.
Malvern, AR 72104
Attention: William Royals

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 70041160 000303605073

Lori Jackson